

REGULAR MONTHLY MEETING OF THE STEPHENS CITY TOWN COUNCIL
TUESDAY, August 4, 2009
7:30 p.m.

Mayor Ray Ewing called the meeting to order at 7:30 p.m. and led the Pledge of Allegiance.

Council member Grim gave the invocation.

Roll call showed the following present:

Vice Mayor Joy Shull, Council member Ronald Bowers; Council member Linden A. Fravel, Jr., Council member Michael Grim, Council member James Harter, Council member Joseph Hollis.

Staff present: Mike Kehoe, Town Manager; Brian Henshaw, Town Planner; David Griffin, Town Attorney; Dianne MacMillan, Town Clerk; Ron Fox, Police Officer

Press: J.R. Williams, Northern Virginia Daily; Rob Snyder, Winchester Star

Guests: Juan Gainesback, Eagle Scout; Don Wolf, owner of Newtown Antiques & Pawn

AWARDS AND PRESENTATIONS

Mayor Ewing announced there were several certificates of appreciation to present that evening. He said the first was to Kathy Monk who served as clerk and treasurer. He stated that she was unable to attend the meeting but read the certificate which stated “Certificate of Appreciation – this award is presented to Kathy Monk in appreciation of five years of hard work and dedication serving as town clerk and Town Treasurer of Stephens City, Virginia – given on this 4th day of August, 2009”. The Mayor stated that the certificate would be forwarded to Ms. Monk.

He said there was also a certificate to be presented to Eagle Scout T.J. Hicks who was also unable to attend. Mayor Ewing read the certificate which stated “Certificate of Appreciation – this award is presented to T. J. Hicks for his Eagle Scout project, the construction of the Newtown Common kiosk from the Town of Stephens City, Virginia – August 4, 2009”. The Mayor said the certificate would be passed on to T. J. Hicks.

The Mayor stated that Juan Gainesback was present and asked him to come forward to receive his certificate. The mayor read the certificate - “Certificate of Appreciation – this award is presented to Juan Gainesback for his Eagle Scout project – the construction of the park and playground fencing from the Town of Stephens City, Virginia, August 4, 2009” and presented it to Mr. Gainesback with thanks and compliments on the well constructed fence. All council members voiced their compliments and thanks to Mr. Gainesback.

AGENDA

Mayor Ewing asked that the Agenda be amended to add an action item authorizing the Town Manager to execute a contract for street striping, the particulars to be covered in the Town Planners report. Council member Fravel moved that the Agenda with the addition of the action item mentioned be adopted as amended and the motion passed.

PUBLIC COMMENTS

Mr. Don Wolf, owner of Newtown Antiques and Pawn at 5413 Main Street addressed Council with concerns about a police officer he felt ticketed him in July when he should not have done so. He said there was a funeral procession going through the town at the time and related the incident that brought about the ticket. He also stated that he had heard many complaints about the officer writing tickets for 3 miles over the speed limit and selectively ticketing citizens. Mr. Wolf said that this did not make a good impression on people passing through the town or coming to shop. He said that he felt that officer was being too aggressive in his enforcement. Mr. Wolf added that he had spoken to Chief Bockey regarding the issue. He thanked the Council for their time and the opportunity to discuss the issue.

There being no further comments, the public comment session was closed.

PUBLIC HEARINGS

A. Lease of Town Property – 1460 Fairfax Street – tax map 74A1 (Amerigas)

Mayor Ewing introduced the public hearing on leasing town property at 1460 Fairfax Street. He said the lot was approximately ¼ acres and was now being leased by Amerigas Corp. Mayor Ewing opened the public hearing and asked for comments or questions. There being none, the public hearing was closed.

MINUTES – July 7, 2009 Regular Meeting

Council member Grim moved for approval of the minutes of July 7, 2009 as presented and the motion carried with the following vote:

Recorded Vote:

Vice Mayor Shull	-	Aye	Nays - None
Council member Bowers	-	Aye	Absent - None
Council member Fravel	-	Aye	Abstain - None
Council member Grim	-	Aye	
Council member Harter	-	Aye	
Council member Hollis	-	Aye	

POLICE REPORT

The Mayor asked for questions or comments regarding the police report. Officer Ron Fox reported that the Town had received DMV grant money for new safety equipment. He said it was approved for \$8160.00 with matching funds due of 8% or 10% percent. The Mayor asked what equipment was covered by the grant and Officer Fox said it would include radar units, toxilizers and other similar items. Mr. Kehoe noted that the town had the matching funds in the budget. Mayor Ewing said the Police Report was accepted as presented.

ACTION AGENDA

A. Adoption of Amendments to Town Code – Chapter 23 Floodplain Ordinance and Chapter 1, definitions

Mayor Ewing advised that the Floodplain Ordinance was subject of a public hearing last month but was not approved on first and second reading to allow adoption.

Mayor Ewing requested that the Clerk read the ordinance by title only for first reading. The Clerk read “An Ordinance to Amend Chapter 1 and Chapter 23 of the Code of the Town of Stephens City, Virginia for the purpose of revising the Town’s Floodplain Ordinance.” Council member Grim moved to adopt the amendment for the first reading and the motion passed.

Mayor Ewing requested that the Clerk read the ordinance by title only for second reading. The Clerk read “An Ordinance to Amend Chapter 1 and Chapter 23 of the Code of the Town of Stephens City, Virginia for the purpose of revising the Town’s Floodplain Ordinance.” Council member Fravel moved to adopt the amendment for the second and final reading and the motion passed with the following recorded vote:

Recorded Vote:

Vice Mayor Shull	-	Aye	Nays - None
Council member Bowers	-	Aye	Absent - None
Council member Fravel	-	Aye	Abstain - None
Councilmember Grim	-	Aye	
Council member Harter	-	Aye	
Council member Hollis	-	Aye	

B. Approval of Lease of Town Property at 1460 West Fairfax Street to Amerigas

Mayor Ewing presented the item of lease of town property at 1460 West Fairfax Street to Amerigas. He called for a motion.

Council member Hollis moved that the Council of the Town of Stephens City approve the lease of town property at 1460 West Fairfax Street to Amerigas Corporation. Council member

Fravel asked if the lease rate was the same and Council member Grim asked for details of the lease. Mr. Kehoe advised that the lease amount was \$3000.00 per year and was an extension of the previous lease for a three year period with increases built into the lease. He added that Amerigas had leased the property for the last 7 or 8 years with no changes or problems. The motion passed with the following recorded vote:

Recorded Vote:

Vice Mayor Shull	-	Aye	Nays - None
Council member Bowers	-	Aye	Absent - None
Council member Fravel	-	Aye	Abstain - None
Councilmember Grim	-	Aye	
Council member Harter	-	Aye	
Council member Hollis	-	Aye	

C. Appointment of Town Treasurer

Mayor Ewing explained the process followed. He said the vacancy was duly advertised in two papers and over forty applications were received. He said the Office of Mayor selected from applicants, eight people to interview and from those eight interviewed, the committee selected Kim Uttenwieler to be Treasurer. He said she was present and as Council could see from her application and resume, she was extremely qualified for the job, had all of the credentials and more than hoped for. Council member Hollis, Finance Committee Chair added that Ms. Uttenweiler was eminently qualified, was the top pick and the Town was pleased to have her.

Council member Harter moved to appoint Kim Uttenweiler as Town treasurer with a salary set at \$32,000.00. The motion passed with the following recorded vote:

Recorded Vote:

Vice Mayor Shull	-	Aye	Nays – None
Council member Bowers	-	Aye	Absent - None
Council member Fravel	-	Aye	Abstain - None
Councilmember Grim	-	Aye	
Council member Harter	-	Aye	
Council member Hollis	-	Aye	

D. Authorization to Sign Contract for Striping of Streets

Mr. Henshaw explained that this was part of the CIP and was approved as such. After the formal bid process, two bids were received and the project was awarded to Wilson Paving and Asphalt Maintenance. He advised that he and the town engineer met with them and Wilson Paving would forward the contract to the town. Mr. Henshaw said the goal was to get the project completed prior to the beginning of the school year. He requested that Council authorize the Town Manager to execute the contract. Council member Grim asked the amount of the contract and he was told that it was roughly \$12,000.00. Mr. Henshaw explained the scope of the work

which would be all of Main Street with striping, stop bars, pedestrian crossings and edge lines. Mr. Kehoe said that he checked with VDOT and they have no plans for repaving in the near future. Council member Fravel asked what time of day the work would be done. Mr. Henshaw said they would be doing the work incrementally by blocks and would coordinate with the town as to time of day for control of parking. Council member Fravel asked if VDOT would maintain the new stop blocks in addition to the ones there now and Mr. Henshaw said he felt they would maintain only the existing one. He added that the town planned to put this maintenance work into CIP so the town can maintain them. When asked, Mr. Henshaw said that the striping would be paint and not thermo-plastic due to current street conditions.

Vice Mayor Shull moved that the Town Council authorize the Town Manager to execute the contract with Wilson Paving and Asphalt Maintenance for the street striping project. The motion passed with the following recorded vote:

Recorded Vote:

Vice Mayor Shull	-	Aye	Nays - None
Council member Bowers	-	Aye	Absent - None
Council member Fravel	-	Aye	Abstain - None
Councilmember Grim	-	Aye	
Council member Harter	-	Aye	
Council member Hollis	-	Aye	

COMMITTEE REPORTS

A. Administrative Committee - Joseph Hollis, Chair

Council member Hollis reported that there was a Supreme Court case involving the City of Virginia Beach and its noise ordinance and as a result of this case, the Virginia Supreme Court threw out the noise ordinance and made all noise ordinances invalid throughout the state. He added that David Griffin, Town Attorney was working on a sample ordinance with colleagues for adoption but this left the Town without an applicable ordinance. Office Fox asked if the police department could use disturbing the peace as enforcement in the meantime. Mr. Griffin said he could try but that it might be contested.

B. Personnel Committee – James Harter, Chair

Council member Harter said he had no report other than to welcome the new Treasurer.

C. Parks & Recreation Committee – Ronald Bowers, Chair

Council member Bowers said there was no addition to the written report submitted.

PLANNER’S REPORT – Brian Henshaw

Mr. Henshaw told the members that the only item of urgency in his report was the need to get the signed Floodplain Ordinance to DCR as soon as possible. He said the text was already

forwarded to FEMA for review and the town would be in good shape when the signature page was sent off.

TOWN MANAGERS REPORT

1. Mr. Kehoe reported that the Mulberry Street sidewalk project was finally completed. He said the project was held up for three years due to drainage issues that were not addressed in the original plans. He said VDOT would come in and do an inspection and there might be some follow up work. He added that this was a T21 enhancement project and he was not sure how much, if any money was left over since the town was responsible for 20% of that money.
2. He reported that the town maintenance crew had been working very hard in the summer throughout the town and had made the town look a lot better. He said the next project was to upgrade the signs throughout the town.
3. Mr. Kehoe said that as part of the Crooked Lane Community Development Project, the derelict house at 1118 Rowe Lane had been demolished. He said it had been an eyesore for many years.
4. He reported that the Route 11 Yard Crawl would be on Saturday, August 8th. He said there would be spaces sold at the Commons but anyone could have a sale at their own residence. He said many of the businesses in town pick up customers that day and the Yard Crawl was good incentive from the commercial aspect.
5. Mr. Kehoe reported that Sherando High School had requested permission for the homecoming parade on the 4th weekend of October and to reserve the Newtown Commons for that day. He said the parade had gone well in previous years. He said he would schedule it to come before Council for approval at the next meeting.
6. He reported that there had been only one building permit in July to replace a burned structure on Comer but there were five habitat houses either under construction or occupied. He added that several other townhouses were under construction but once these were built he did not foresee any new building unless West Wynd subdivision picks up and that seemed to be on a slow track

COUNCIL COMMENTS/CALENDAR

Council member Hollis said that in regard to the noise ordinance, he should have mentioned advertising the updated ordinance. Council member Hollis moved to advertise the amended noise ordinance for public hearing and action at the September council meeting. The motion passed with the following recorded vote:

Recorded Vote:

Vice Mayor Shull	-	Aye	Nays - None
Council member Bowers	-	Aye	Absent - None
Council member Fravel	-	Aye	Abstain - None
Councilmember Grim	-	Aye	
Council member Harter	-	Aye	
Council member Hollis	-	Aye	

Council member Fravel commented on the statements made by Mr. Wolf regarding his ticket. He said he had heard more complaints about technical tickets – issuing to the letter of the law such as not stopping for 3 seconds at a stop sign. He said the town could be getting a bad reputation. Council member Hollis agreed that when this happened on a regular basis the town will get a bad rap. He stated that the Town should want to be welcoming to visitors or residents. Council agreed that it would be worth investigating the situation.

Mayor Ewing said he would discuss this with the Chief and the officer involved.

MOTION FOR CLOSED MEETING

Date: August 4, 2009

Motion By: Vice Mayor Shull

Vice Mayor Shull moved that the Council of the Town of Stephens City enter Closed Session pursuant to Section 2.2-3711.A.7 of the Code of Virginia, 1950, As Amended, to discuss the lawsuit filed by Frederick County against its citizens in the Town of Stephens City, such a closed meeting being necessary where consultation and briefing in an open meeting would adversely affect the litigating posture of the public body as well as to discuss potential litigation which may be filed by the Town against other bodies for violations of Virginia law, court orders and breach of contract, where consultation with counsel on such probable litigation in an open meeting would adversely affect the litigating posture of the public body.

VOTE:

Aye – Vice Mayor Shull
Council member Bowers
Council member Fravel

Council member Grim
Council member Harter
Council member Hollis

Nay – None

Absent – None

ATTEST: _____
Dianne L. MacMillan, CMC
Town Clerk

Council member Hollis moved that the Council reconvene in open session. The motion passed with the following recorded vote:

Recorded Vote:

Vice Mayor Shull	-	Aye	Nays - None
Council member Bowers	-	Aye	Absent - None
Council member Fravel	-	Aye	Abstain - None
Councilmember Grim	-	Aye	
Council member Harter	-	Aye	
Council member Hollis	-	Aye	

CERTIFICATION OF CLOSED MEETING

RESOLUTION

Date: August 4, 2009

Motion By: Vice Mayor Shull

WHEREAS, the Council of the Town of Stephens City, Virginia has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712.D of the Code of Virginia requires a certification by this Council that such Closed Meeting was conducted in conformity with Virginia law,

NOW, THEREFORE, BE IT RESOLVED that the Council hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Council.

RECORDED ROLL CALL VOTE:

Aye – Mayor Ewing	Vice Mayor Shull
Council member Bowers	Council member Fravel
Council member Grim	Council member Harter
Council member Hollis	

Nay – None
Abstain - None
Absent – None

Dianne L. MacMillan, CMC, Town Clerk

Council member Hollis moved that the Council of the Town of Stephens City authorize the Town Attorney to file suit against other bodies for violations of Virginia law, court orders and breach of contract at the appropriate time. The motion passed with the following roll call vote:

RECORDED ROLL CALL VOTE:

Aye – Mayor Ewing	Vice Mayor Shull	Council member Bowers
Council member Fravel	Council member Grim	
Council member Harter	Council member Hollis	

Nay – None
Abstain - None
Absent – None

There being no further business, Council member Grim moved to adjourn at 8:35 p.m. and the motion carried.

Ray E. Ewing, Mayor Ray Ewing

Dianne L. MacMillan, CMC, Town Clerk